

# A PAMPHLET

ON

## EQUAL RIGHTS AND PRIVILEGES.

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The time has at length arrived when it becomes necessary and right for us, as discreet and vigilant watchmen of our liberties, to cast up our accounts and see if we have not suffered ourselves to squander, with prodigal waste, what our forefathers accumulated with toil. Here they fled from the land of oppression and sought that protection and liberty that was denied to them in their native land, with no shelter save the wide canopy of heaven, no cheering voices to buoy them up in the dark hour of dismay, save the war-whoop of the savage and the howling of wild beasts; no one to rely on for protection, save our common parent. In those days of despair, in that hour of darkness, a star appeared in the East, and soon attracts the observation of millions on foreign shores; that illuminated our paths through the dark valley of oppression and conducted us triumphantly to liberty and independence. That star was our immortal Washington, who, with his patriotic band, went shoulder to shoulder and planted the tree of liberty in our midst and put to flight our most deadly foes, with no other star to guide them save the thirst for liberty. They light up their political horizon, lately enveloped in darkness, with the lamp of freedom and independence. No demon of fanaticism then stalked through the land, yet smoking with the blood of martyrs of liberty; no ambitious, lawless aspirants to office who would, with giant strides, crush down the laws of their country; no syren, melodious voice to create sectional jars and divisions; no attempt, on the part of old England, so lately chastised, to make us stain our hands in a brother's blood. No, like the forlorn travellers, almost exhausted by the vicissitudes of time and all kind of exposure, they become mutually attached to each other after having arrived in the port of safety, would, like some desperate wild beast, after having defeated his pursuers, with much loss of blood, watch with increased anxiety, and with eyes like glaring balls of fire ready to pounce on his enemy. But that feeling was of short duration, and the time soon arrives when a dark cloud is seen at a distance in the North, which began to cover our political horizon, filled with all the elements necessary to complete our destruction. There lived amongst us, at that time, men who have since passed to that bourne from whence no traveller returns, who warned us, with more than paternal admonition, against the impending danger, and implored us to buckle on the armor of virtue and to maintain, in common, all the blessings bequeathed



to us by our forefathers. They, then, invoked the aid of patriotic departed souls to hover around us and intercede for the preservation of those blessings they achieved, but all in vain; their supplications have passed alike unheeded by all, save the ghosts of our revolutionary sires, who yet present themselves to our imagination, all covered with wounds, reiterating in our ears to rally around the standard of liberty and to defend the constitution. The flood-gate of destruction has been raised by our enemies and unless stopped will sooner or later sink our happy land and institutions into the lowest gulf of insignificance. Methinks I hear the confused murmuring and fearful forebodings of the oppressed nations of the earth. They, too, would drop a tear of sorrow at seeing their only asylum no longer to them a place of safety. No longer would we be held out as a beacon of light, by the reflections of which they might sooner or later be released from their oppression.

Let us commence the work of reformation, and, like diligent physicians, examine the cause of the disease, and while their is life let us not despair; let our medicine be entreaties for the healthy restoration of the body politic. Let us picture, in glowing terms, to the imagination of our aggressors the injuries we have received at their hands; let us unfold to their view, in the most pathetic manner, the ties of consanguinity that they have rent assunder, the holy league of paternal union that they have attempted to violate; let us present to their disordered imaginations old England, our common enemy, our unnatural parent, that has fanned the flame of discord amongst us and with whom it has ever been characteristic to appease her jealousy with the blood of her deluded and infatuated victim. Shall emigration of foreigners to this country, in the wildest flight of the imagination, be considered in any wise conducive towards bringing about the present state of things. No foreign influence is now as it was in the good days of old—they were then in a manner all foreigners—a man just fled from the land of oppression is the last being on earth to suspect of voluntarily rivetting on himself his old manacles of dominion, and it is not until time and a chain of circumstances throws him off his guard, and he ceases to use vigilance, that he is in most danger. It is very natural for a wise and discreet son, who feels his bosom warmed by the tenderest emotions of filial duty, to believe a parent right, when he is right, and to make his course through life the standard of his actions. Such should be our feelings in relation to our forefathers.—There can be no ambition, however grasping, that should aspire to be either greater or more patriotic. Were they able to govern themselves? Yes! Their noble deeds have entwined around their brows wreaths of glory that will remain unimpaired until time is no more. Is there an American citizen so to feeling dead, whose bosom never has been warmed with the liveliest emotions of gratitude towards that gallant band of foreigners who warmed our once desert plains with their generous blood; can that sympathy, showed to us in the day of our adversity, in the cause of our mutual struggle for liberty; can their deserted homes, carrying with them no incentive to action save the thirst to be the revengers of our cause, ever be obliterated by time? No! So long as the love of liberty is cherished and gratitude has a seat in our breasts, so long will we cherish their memory and point them out to posterity as the brightest



constellation in the firmament of fame. Away, then, with such false pretences. As well might Julius Cæsar have attributed the downfall of Rome to foreign influence, when he crossed the river Rubicon and trampled under foot the laws of his country. As well might a disease in the heart, that has caused a form of gigantic strength to mingle with its mother dust, be attributable to the action of the fingers and toes, that move only through the agency and instrumentality of the heart blood of life. No, ambition, with her uncomely and motly crew, has, by her insinuating address, although sometimes repulsed, at last made her entrance and invaded the high temple of justice and liberty, erected by our forefathers and converted it into a den of thieves. Is there yet no balm in Gilead and is there no physician there? Where are the descendants of that illustrious band, once in the North, that helped to seal our Union with their blood? Can their sons disgrace their sires by being the authors of their country's wrong? Is there yet no surviving patriot sire whose imagination of former times is fresh, that could lay bare his emaciated frame, worn down by the consuming tooth of time, and point to them the battle ground, all covered with gore, and call on them to rally around the standard of liberty and to defend the constitution. Massachusetts was amongst the first to unfurl the banner of independence. On the 18th July, 1776, Gen. Putnam unfurled the banner at Cambridge, on the joyful occasion of the reception in that town of the declaration of independence, bearing the motto on one side, an appeal to heaven, on the other side "*Qui transtulit sustinet.*" This same Massachusetts has so far descended from her pristine purity as to have been one amongst the most active States that has produced the deadly hostility that now exists between the North and the South, on the subject of negro slavery. All who know any thing of our revolutionary struggles with old England know that it was conducted under the auspices of the old continental Congress, which acted under the authority of the articles of confederation, constituting but a very imperfect bond of union between the States. It was the pressure from without and a sense of common danger that kept the States together, and the moment that pressure was removed the confederation was about to be dissolved into its original elements and even then there were no scruples expressed as to whether slaves and their owners were not alike protected with citizens possessing property of a different kind.

The preamble of our constitution says, that the object in forming a new government was to form a perfect union between the States, establish justice, insure domestic tranquility, provide for the common defence promote the general welfare and to secure the blessings of liberty to ourselves and posterity. Section 2d, of article 4th, says that the citizens in each State shall be entitled to all the privileges and immunities of citizens in the several States. Our constitution throughout breathes a spirit of equal protection to all of our citizens, regardless of the kind of property they may be possessed of, if honestly acquired. If our constitution expresses no doubt as to our perfect equality in all the rights and privileges of our government and protects us in our rights to follow any occupation we may most desire with the privilege of accumulating any kind of property that in our wisdom we may deem most salutary to our interest. It would



then necessarily appear that there can be no power vested with the right to pass any laws in opposition to the full spirit and meaning of that instrument, and that neither the people in a State or Territory have any right to say whether it shall be a free or slave State, but open to the reception of all American citizens, slave holders and non slaveholders. — Under our constitution they all go there with equal rights and privileges, Neither party can, without conflicting with its principles, exclude the other party, as in either case there would be one party aggrieved, when both are made equal under the constitution. The Territories are the property of the United States and under the guardianship of Congress, and subject to such laws as Congress chooses to provide for them or permit them to make for themselves; until they become States. The children have then arrived at twenty-one years of age and might be said to be out of the control of their guardians, they possessing all the rights of their fathers. But, nevertheless, the guardianship of Congress never ceases—it was appointed for no limited time or period. True it is, when a Territory is admitted into the Union as a State, she may be said to be out of the control of her guardian Congress, but only to a very limited extent. But it cannot be said that a part possesses all the rights of their fathers, which was not lavished on one part but to be equally divided. If any number or the whole of said children, having arrived at twenty-one years of age, is satisfied to receive each one, of their said guardian, the equal proportion allotted to each under their father's will. In that case there would be no cause or good reason for this guardian to interpose, but in case of a palpable violation of said will, or a want of strict adherence and fidelity to all its principles by either heir or heirs, then he or they would be placed just as much under and as subject to said guardian as though they were infant heirs. I consider the blessings conferred on us by our constitution similar in its character to an estate composed of different varieties of property, left by a father to be equally divided between his children and so ingeniously fixed as to descend in the same undiminished equal distribution to the latest posterity, and so entailed that neither child can have it in his power of disposing of his interest or parting with it in any way one to another, and if such a thing did happen, in violation of said will, whereby one portion of said family was entirely robbed by the other, or even obtained it by the consent of the sufferer, it would neither make the one richer or the other poorer, because the guardian appointed to carry out said will would discover that they had been dabbling with property intended forever to be kept sacred. The guardian, under such circumstances, being fully clothed with the power and sworn to support the will, has full power to enforce it and to lay hold of property so extorted from the hands of one brother into another, and applies it or returns it just where it was at first, which is to descend to his and their posterity in like undivided manner, subject to be recovered in like manner, under whatever circumstances it may be parted with. The fact of a part of said sons being absent and a part being present at a certain time when a division of a small tract of land estate was to take place, would not give those who might be present any advantage over their absent brothers; but when they returned they would have a right to demand of their guardians the



same equitable proportion that they would have received if there at the time of the division. The citizens of the United States, agreeably to the full spirit of the constitution, are all equally protected in their honest occupations and all guaranteed to have equal rights and privileges. It would appear, if Kansas was made a free State or slave State, that it would be done to the exclusion of members of the same family, all of whom, under the constitution, have the same right. A man living in Texas would have just as good a right, under the constitution, to take his negroes there as he would have to stay in Texas; and, on the other hand, if it is made a slave State a man from the North would have just as good a right to go there as he has to stay in the North. Their claims would be just as equitable as the claims of absent legatees to an estate in which all have to be equal. The constitution of the United States guarantees to every State in the Union a republican form of government. I should like to see a republican government fully portrayed in all of its beautiful forms, that would force an American citizen to leave the country of his adoption because he happened to own a kind of property not suited and adapted to the wishes of the majority of fanatics in one State. It is ridiculous to suppose that our constitution has clothed one portion of American citizens with the exercise of greater powers or privileges than another, and if it is true that we are all equally protected and all entitled to equal rights and privileges, then Missouri has just as good a right to exclude a man from the North, with his property, as they would have a right to exclude and drive from their State a Missourian with his negroes. The fundamental principles of all law is founded upon the broad ground of justice and will not tolerate wrongs either intentionally or erroneously committed between individuals, but stands in bold exhibit an unimpaired monument of justice ever willing to do justice to all. Can it be supposed that our glorious constitution is more rotten and more treacherous to our interest? Has this model of wisdom fallen in standard weight below the petty laws of the land? Is one State permitted so to torture it as to strip a part of its citizens of their rights? The framers of this constitution declare, in the most emphatic language, that it is the supreme law of the land and all laws made in pursuance thereof. A conspicuous feature in this will is declaring all entitled to equal rights and privileges. It now remains to examine the portion received by the heirs and see if there has not been a total departure from duty on the part of the guardian sworn to support the will, which makes each heir entitled to the same. If a majority in one State has a right to agitate one settled principle of the constitution and thereby refuse to admit as residents in a State heirs who have an equal claim, under the constitution, to all the rights and privileges, and to drive from the limits of a State all who may own a kind of property not congenial to the wishes of the majority in said State? Then I would say that the same majority would have the right to abolish the right we all possess, of trial by jury. If a State has a right to agitate one settled principle of the constitution and conflict with its principles, they have the right to act upon another. Congress does not nor never did possess any right to legislate either as to the extension or restriction of slavery. She has no power to increase or lessen its limits, no more than a common guardian has the



power to increase or diminish an estate which he is bound to divide equally between heirs, and she had just as good a right to repeal any law, made by the exercise of a power that she never possessed, as a rogue has to return stolen goods to their proper owner. Has this guardian Congress, that has the power to admit a State into the Union, no more to do with it? If she possesses no power to extend or lessen the limits, can she, when she is sworn to support the constitution and make all equal; has she a right, at that critical moment, the heirs all being of age and each one demanding his proportion agreeably to the will, to lose sight of that instrument and to turn the heirs loose, and with tacit indulgence to suffer each one to scramble for himself and for the majority to rule the minority out of their equitable proportion; or is she not bound to admit a State into the Union, free to all American citizens, regardless of the kind of property they may be possessed of, leaving it to the option of the people of the entire mass to follow any occupation they most desire, with the right of accumulating any property either in the shape of negroes or any other property and there to live and remain sheltered by the benign influence of our constitution, that affords all equal protection. If Congress has no right to legislate either upon the restriction or extension of slavery, where did a State get a right to legislate upon private property? The constitution says the powers not delegated to the United States nor prohibited by it to the States are reserved to the States respectively or to the people. The constitution, in this case, just means what is clearly expressed therein, that the States or people are vested with the right of exercising all powers not prohibited by the constitution. That is conclusive. The right is not prohibited to a State to make her State laws and consequently each State possesses that right, provided, nevertheless, that a State, in the passage of her laws, does not conflict with the settled principles of the constitution of the United States. There are settled principles of the constitution therein fully expressed for the good of the whole, the enumeration of which amounts to prohibition, that neither Congress and much less a State has a shadow of right even to agitate or throw in the doubtful shape of controversy, but laid down as immutable settled principles, and by which every American citizen should be governed. There is no settled principle in the constitution more clearly expressed than that declaring that all are entitled to equal rights and privileges and immunities. That is the very arch-stone upon which the whole superstructure of our liberties are founded. Our constitution is replete throughout with a spirit of equal protection to every American citizen, and, like the pointed dagger, is directed to the hearts of tyrants, robs royalty of its base attributes and hurls kings from their massy thrones. But it may be said that that doctrine would be denying to the States the exercise of their rights, but far otherwise. It is only denying to them the power to conflict with the settled principles of the constitution for the good of the whole. As well might an heir to a part of an estate complain of not having justice rendered him, after having received his equitable proportion promised by his father's will, because he was not permitted to rob his other brothers, all of whom were made equal. No, it is one State so far from being robbed of her vested rights that has been permitted to violate the settled principles of the constitu-



tion, which were laid down as cardinal points for every American citizen to be governed by, up to which they have a right to go, but never to pass. The president of the United States is another guardian of the people and is fully vested with the power of having all laws executed that are made in pursuance to the constitution, and being sworn to support the constitution, possesses the right to oppose, by direct prohibition, any law made in opposition to the full spirit and meaning of that instrument and it is by and through those, our guardian's, that the public domain is purchased. It must be through the same channel that the distribution is made, and that distribution can only be made equitable by strictly adhering to the will that hath drawn no line of discrimination between no sect or party, but recognizes all equal. Our constitution is the supreme law of the land and recognizes public land as public property, open on equal terms to all American citizens, regardless of the kind of property they may be possessed of and beyond the reach of any controlling influence of State laws to the contrary. To say otherwise would be to assume the position that it is not public property, but only open to a certain class who happen to be blessed with the right kind of property qualifications, who possess the power to remove at their option any American citizen, however good he may be, if it is his misfortune to own a kind of property not congenial to their wishes. Our constitution protects all religious denominations in the right to worship the Supreme being in their own way and after their own forms. If a majority in one State in direct opposition to the full spirit and meaning of the constitution—that says we are entitled to equal rights and privileges—has the power to drive a citizen from their State in consequence of being the owners of property and of a kind not of their choice? By the same process of reasoning, the same majority would have a right to remove a good citizen from their State who might be so unfortunate as to entertain religious notions at variance with theirs. What now is the difference? A man with his property is just as much protected under the constitution as a man is with his religious views. They are both American citizens, no line of discrimination drawn by which one can claim any advantage over the other. There is a Roman catholic that I do not like, he entertains religious notions at variance with mine, he must leave; there, also, is, a man who owns negroes that I don't like, he must leave also. If the man owning slaves is driven off, by the exercise of the same right they can drive from the State the catholic. The one owns property that they disapprove of and the other entertains religious views at variance with theirs. Suppose there is at this time a sufficiency of negro holders in Kansas to make it a slave State, and it is made a slave State, and there happens to settle a man who owns no negroes, he enters a quarter section of land and is surrounded with all the comforts of life calculated to insure ease in his declining years, a deputation waits on him and after disposing of some of the forms and ceremonies of the day, and used in this case as a preface to the wrongs they were about to inflict upon him, "Sir, the laws of our State authorise us to apprise you that this cannot be your abiding place, we have flocked here as negro holders and made it a slave State. We prefer negro labor to hiring white men, and we also prefer mules to horses. Now we are satisfied that our choice in those particu-



lars have reached your ears, and it is moreover desired and determined upon that you are to leave immediately, for we see that you work white hands, fine horses and cattle knowing, as you must do, that we are working negroes and mules, and thereby holding out a spirit of rebellion and and resistance to our laws." If this persecuted individual, if in the nature of things it was possible for this man to be a citizen of one State only and at the same time not a citizen of the United States and not entitled to his full share of protection, and was not an equal participant in all the rights, privileges and immunities of our country, then he, under these circumstances, would have to bow with implicit obedience to the mandates of his rulers who had imposed upon him such binding and unequal conditions. Let us take a glance at the spirit of extermination that now stalks with destructive influence through our land. We have the painful testimony before us, a case of a body of armed men, well disciplined and organised, suffered to pass with impunity through the United States and to wage civil war. To what circumstance shall we attribute this startling state of things, for American citizens, connected by all the ties of consanguinity and all the social relations of life, and by all the recollections of former mutual struggles for our liberty, now ready to bury in oblivion all former ties and to stain their hands in a brother's blood. Is it only a slight indisposition on the part of the body politic that will wear away of its own accord, without the application of any remedy, no it is that worm of destruction that never dies, that has with loathful steps seated itself in the heart of our body politic. It is that destroyer of the peace and happiness of the human family, that has deposed innocence and virtue from their unassuming positions, subverted empires, made rivers of blood to flow, and wrung the hearts of the widow and the orphan with bitter anguish.—No, it is an attempt on the part of one party to exclude the other from being equal sharers in the blessings of their common country and to make property qualifications the test by which an individual is either suffered to remain in the land of his fathers or excluded as the case may be. It is an attempt on the part of one party to wave the flag of triumph over the other, in matters wherein both are recognised as equal under the laws of their country, but only destroy that feature in our constitution that affords equal protection to all, and all would be lost that is worth preserving. Like causes has and always will produce like effects, and we will pass off like all other nations of the earth who have been governed by the same precedent. Friendly relations between individuals jointly interested in any enterprise are alone sustained by a strict reciprocity of good feeling entertained by each to one another, and a concurrence of opinion in all those leading principles, dictated by common sense and justice, a departure from which, by either party, would be equally injurious to both parties, and would not only be in opposition to their interest, but sooner or later would be the means of dissolving a firm, neither of whom, individually, would be able to pursue the same business upon his own means and responsibility, but when united were enabled to compete with and overcome their older opponents. When States are so disaffected, one towards another, whose interests are identified, they are alike on the retrograde; only on a larger scale. When a State is made a slave State it has no



tendency, nor never had, to induce slave holders to the belief that they were the entire owners of the public domain within the limits of said State to the entire exclusion of any and every body who wished to settle there who did not bring with them the requisite property qualifications. All that slave holders claim in a slave State is to hold their property and to use it in a way or manner they may desire, and to receive that protection promised by the constitution to every American citizen. They do not object to a man coming from the North and settling amongst them, and equally participating and enjoying their share of its comforts and blessings. If our constitution guarantees to all American citizens equal rights and privileges, it would appear that a man with negroes has just as good a right to settle in a free State as a man owning no negroes has a right to settle in a slave State. The one prefer enslaving a white man and his family, free born citizens of the United States, and the other prefer getting the work out of negroes. But people in a free State appear to think that there are two kinds of American citizens, entirely different and separate in character:—One kind that owns negroes, and the other property of a different kind, and that it is the latter kind that the constitution intended to say were entitled to equal rights and privileges, to the exclusion of the former. If Congress has a right to admit a State into the Union, and we are satisfied that she does possess that right, how and under what circumstances is the question, Does Congress act in obedience to the high obligation imposed by the constitution to throw it open in a way and manner thereby suffering the majority to rule the minority out of their rights, and rights that Congress was appointed as their guardian to protect—and to measure to each one his full share of justice—and to place them beyond the usurping influence of State laws? Will it be contended that Congress has faithfully executed her trust, and legislated for the good of the whole, when she admits a State into the Union as a sister State, and then surrenders all power to the State thus admitted—leaves the heirs on the estate that should have been divided equally between them—and beholds in the struggle for the ascendancy, with tacit acquiescence, the majority, excluding the minority, and at length the entire owners of property that all were equally entitled to? Congress as guardian for the whole people of the United States, and sworn to support the constitution, which declares that all are equal, has no right to admit a State into the Union, public property as it is, without throwing it open alike to all American citizens, slaveholders or not slaveholders, and to protect each one in his rights. This guardian possesses no power under the will or constitution either, to add to or diminish it, but holds the benefits, rights and privileges, in trust, to be equally divided, and any effort on the part of a few to lay hold of more than their equitable proportion, to the exclusion of others, all of whom have an equal right, can be counteracted by the legal interposition of said guardian, who is clothed with all the necessary attributes to carry out the purposes of the will. In case said guardian was driven to that alternative, would any say that they were robbed of rights guaranteed to them by the constitution? Congress has no right to add to or diminish the limits of slavery, either in a State or territory, no more than she possesses the right to add to or diminish the limits to any other private property. The constitution draws no line of discrimination be-



tween property, but leaves negroes as any other property, at the discretion of the owners, to be taken any where, or to any place, at the option of legal owners. Does not that spirit of general protection that our constitution breathes throughout to every American citizen afford a tower of defence to which the oppressed can retreat, and under its protection and fostering care demand restitution? Is congress appointed to act for the good of the whole people of the United States? Or is a State vested with the exercise of powers to destroy that equality that her creator, the constitution, says shall exist, and which Congress has sworn to sustain?—Where does a State get the right to legislate upon private property? Is it an original right they claim, that is found amongst uncivilized beings in a state of savage ferocity, where might gives right, where superiority is tested by physical force? Or is it an original right, derived from our constitution, that declares all are equal? Our constitution says whenever two thirds of both houses of Congress shall deem it necessary, shall propose amendments to this constitution—or on the application of the legislatures of two thirds of the several States, shall call a convention for proposing amendments, which in either case shall be valid, to all intents and purposes, as part of this constitution, when ratified by the legislatures of three fourths of the several States, or by conventions in three fourths thereof, as the one or other mode of ratification may be proposed by the Congress. The constitution in this case just means what is clearly expressed therein. It cannot be so tortured as to convey the idea that any power under the pretext of amending the constitution, has a right to destroy that justice, domestic tranquility and equal protection, to every American citizen in all the rights, privileges and immunities, under our government, which the framers of our constitution labored to maintain. That power was given to create, but not to destroy, but to make any amendments that the increased wants of posterity might from time and circumstances demand; and in case of any omission on the part of its original framers of any thing in any wise calculated to render more perpetual and indissoluble that paternal league that should forever exist—then they possess the right so to amend it as to be enabled to carry out the original design of its framers, and to make any amendments that may be necessary to unite our grand confederacy more strongly in the bonds of amity and good will.—The preamble to our constitution declares the object in making it was to form a more perfect union between the States—to establish justice, insure domestic tranquility, provide for the common defence, promote the general welfare and secure the blessings of liberty to ourselves and posterity—and there is not living power on earth that has the right to make any addition thereto, which does not give strength to all its purposes, spirit and meaning. The amendments must be conceived and made in the same spirit that gave birth to the constitution—it was made and intended that all should be equal under its influence—and any of its creatures are only vested with the power to act as sentinels to ward off encroachments against the liberty of the people by a rigid and strict adherence of each one to their chartered limits. Their limits for action are to perpetuate and strengthen, and to preserve unimpaired, to the latest posterity, the work that our forefathers labored to obtain. Their limits are to strengthen but not to destroy.



The framers of our constitution, as though endowed with almost supernatural wisdom and sagacity, explored the dark and gloomy caverns of futurity, the birth place of tyrants and the usurpers of their country's laws, there they thought they saw infant monsters in human shape that would when matured wrestle with the liberties of their country, and in pursuance of their well grounded fears and apprehensions have placed the constitution between the people and danger forever, to be called the law of the land, and only admits any amendments to be called a part of the original—(if it is a part of the original)—if it is a part of the constitution. It can only be so by being made after the model of the original—in the same spirit and meaning—thereby strengthening the bond of union between the States instead of impairing it. The thing itself must exist in an imperfect shape before an amendment can be conceived necessary. The evil must exist before it can be removed, or its appearance amongst us must be anticipated before we can arm ourselves against its influence.

Is there any thing on the pages of our constitution to show that negroes are not as much protected in the possession of their owners as any other private property? Does the constitution draw any line of discrimination between individuals who may own property of an opposite character? If our constitution guarantees to all equal rights and privileges, neither two-thirds of both houses of Congress, nor convention, has a right to decide to the contrary, and neither of said bodies assembled have a right nor never had to say that slavery might be introduced or excluded in this or that State to suit the will of the majority. The creatures in this case cannot be greater than their creator. The creator of our constitution declares that we are all equal, and neither of said constituted bodies, all of which are creatures of the constitution cannot destroy that equality. They, assembled, can impart no power to a State that they never possessed. If, then, our constitution guards the slave holder alike with a man owning a different kind of property and draws no line of discrimination between individuals, but holds out the same inducements to all, in that case no amendments can be made to it without destroying the original. But suppose that it was apparent, from the face of the constitution, that it did not afford, in a certain clause, that general protection to all that was intended by its framers. Even in that case they would have no right to act otherwise than to take up the constitution and to act up entirely and altogether to the full spirit and meaning of that instrument and the palpable intention of its framers; in that case they would possess no right to say that this or that private property should be excluded from a State at the option of the majority in said State. But, on the other hand, it would unfold itself as a case that would come under the immediate jurisdiction of either of the before mentioned constituted bodies to make amendments. There is a case exposed to their view, presenting an evil that they have the power of amending; a principle, ambiguous in its character, when exercised, effectually destroys that equality that was intended should exist.—They have a right to amend it agreeably to the true spirit and meaning of the constitution and so to remove said evils, if any should exist, as to harmonise with its views and intention.

The framers of our constitution although endowed with rare powers of intellectual research, entertained no favorable notions of infallibility.—



They knew that they were only men and like all of the human race liable to err, and for fear of having fallen short in their efforts to promote the grand objects they had in view, appointed agents to make any amendments they might conceive necessary to complete and make perfect that tower of defence—the constitution

Our constitution says, "No person held to service or labor in one State, under the laws thereof, escaping into another State, shall, in consequence of any law or regulations therein be discharged from such service or labor, but shall be delivered up on claim of the party to whom such services or labor may be due." Is there any thing therein to show that this clause has exclusive reference to a negro and his owner, nor does it necessarily follow by the expression "escaping into another State," that it was meant to be understood to be a free State. Is it here, where a State conceives the right is ceded to legislate on private property and either to increase or diminish it at the caprice and will of the majority of one State? Is it from this indefinite clause, that embraces almost every variety of persons, without regard to age, party, sex or condition, that they have thrown away the true spirit of the constitution and derived the power to exclude more than one half of the people of the United States from being equal participants and sharers in the blessings of our common country?—Is this the clause, the starting place from which scenes of horror, blood and carnage has emanated? This provides for the reclamation of slaves, it is true, but not any more than it does provide for the reclamation of any other fugitive from justice, agreeably to laws of the State. It affords a white man a redress of wrongs inflicted on him by his fellow man and of his own color; it enables the man who has watched with paternal solicitude his apprentice, confided to his care, to claim his services, if he rambles for security into an adjoining State. It enables the poor man, destitute of the conveniences and comforts of life, to pursue and recover the price of his labor from one who has retreated into another State for safety, although surrounded with all the appendages of wealth; and, on the other hand, it enables the one who hires either labor or services in any way for a stipulated amount, to exact it or its equivalent. All of our indebtedness, one to another, has grown and emanated either from labor or services rendered in one way, some in another. Labor is an article of trade and profit to both contracting parties, and a man when he has it to dispose of, when uncontrolled, generally hunts out the best market and sells his labor or services by the day, month or year to the man who will give him the most money, and a contract thus made by two white men, by mutual consent, is just as much binding as any other contract that could be made by the same individuals, agreeably to the laws of the State—for instance, I hire a white man for a term of twelve months, the stipulated price in cash agreed upon in advance—I am now enabled, if he leaves me, to reach him in any State, and to recover my money or services—he will be delivered up, not to take off and sell, but to place in the hands of the law, and to make it appear that I am the person to whom his service is due. The constitution, in this case, draws no line of distinction between colors, bond or free, but lays down the same law for all to be governed by. It not only enables the master to recover his negro that he is equitably and legally the owner of during life, but says that no person held to service or



labor in one State, under the laws thereof, escaping into another shall in consequence of any law or regulation therein be discharged from such service or labor, but shall be delivered up on claim to the party to whom service or labor may be due—there is but little more to show that the reference is more directed to master and his negro than to almost every other class of citizens—that clause does and was intended to act as a barrier against any injury that one State, when excited by jealousy, might inflict by legislative enactments or regulations on another State. Is there any thing in that clause that gives a State a right either to add or diminish the limits of slavery? Is it not passing strange if a State possesses that right that the word prohibiting slavery never was mentioned in the Constitution? Suppose that the constitution had made a provision that all work animals that might stray beyond the limits of their State should be delivered up to their legal claimants, would it be considered to apply entirely either to horses, mules or cattle, or to one more than the other? Would it not be supposed to embrace all the varieties? Now how many different varieties are there of labor or services—is the poor negro the only one alluded to? If the framers of our constitution intended that it should have reference to master and slave, thereby giving a State the right to make it a free State. Why, for the first time, is the constitution not explicit and plain, and say that a State has a right to legislate on private property.

If a State has a right to legislate on slavery she has a right to legislate on any thing else by substituting the meaning of one word for another, however different they may be, but to be used in either case to suit all contingencies. It must be conceived as a plain fact that if a free State has a right to exclude a man owning negroes from being a citizen therein, that a slave State should possess a similar right to exclude therefrom all persons who are not owners of negroes. The citizens in a free State object to negroes remaining within the limits of the State, not from any feeling of philanthropy or sympathy for their condition, but are actuated by the conviction that it would be more conducive to the interest and general prosperity of the State. In addition to preferring their labor being done by white men; on the contrary, people in a slave State are just on the opposite extreme, prefer having all their labor done by negroes.—Now, which of the two parties can point to the constitution and therein find a clearly defined power by which one party is vested with more power than the other.

In 1776, when the Declaration of Independence was framed, slavery existed in all the States and territories of this Union—slavery now exists in but fifteen of the thirty-one States of the Union—slavery is forbidden by positive law in Oregon and Washington, James K. Polk approving the act. Slavery exists not in Nebraska. By the admission of free California, and the organization of Washington and Oregon territories, slavery is excluded from the Pacific ocean. In Main, on the Atlantic, on a line through to the Pacific ocean. Slavery has been excluded since 1787 and in 1788 even Maine was slave holding as well as all that last territory.—The history of the country has been one continued advance of freedom over slavery ever since 1787. By the admission of free California into the Union, the line of freedom runs down South to 22 1-2 degrees north latitude 4 1-2 degrees south of the Missouri line, and it may be said



that Utah is a free territory. The Mormon Bible resists slavery, and the Mormons themselves forbid the existence of slavery amongst them.—The constitution says that congress, and not the Mormon shall have power to dispose of and make all needful rules and regulations respecting the territories or other public property belonging to the United States. When a State is admitted into the Union the public land within its limits yet unappropriated is just as much public property as it was when a territory, and said lands are consequently under the supervision of congress and subject to all the rules and regulations that Congress is clothed with the power of exercising, as guardian of the people and for the good of the whole. What right has any to say that Utah is free and will be a free State—that the Mormons will not tolerate negroes amongst them? What right has any one to say that such and such States and territories have been made free by law and compromise? The moment the United States become in possession of any territory it that moment falls in the hands of Congress, our common guardian, as public property, subject to no laws or compromise only such as are necessary and right to carry out the purposes of the constitution, which said guardian is sworn to support and which declares all equal.

If the framers of our constitution has granted to the States the power to legislate on private property in opposition to the full spirit and meaning of that instrument, which makes property qualifications the test of citizenship within a State. If they intended that we should be left unrestrained by the influence of any law and to let loose all the selfish feelings incident to man, and for the majority to rule the minority and to divest them of the right of being participants in the blessings of their country. If such was their intention, why such expenditures? Why so much loss of blood? Why so many privations and toils? Why that disinterested sympathy and aid extended to them by strangers in their struggle for liberty? Why did they not prefer being goaded by the oppressive laws of their mother country and be slaves to kings and lords, in preference to leaving their offspring, each one subject to the unrestrained evil passions of the other and for might to give right, and only to be buoyed up by an imaginary idea of liberty.

What right has any one to say that this or that is slave or free territory by law or compromise. It matters not how far north or how far south, how far east or west, they are all equally under the jurisdiction of congress, exercising a common guardianship for the good of the whole.—It is all nothing more or less than public property to which all American citizens, as heirs under the constitution, have an equal right to purchase and settle thereupon, and that cannot be done by the heirs without the aid and assistance of their common guardian, they cannot play snatch game. They cannot make might give right, the majority have no power to exclude the minority from being participants therein, but the equitable proportions must be allotted to them by their guardian and neither said guardian nor any power has any right, either by any law or compromise, to make any regulation by the exercise of which any part of said public property, would be so converted as to destroy or in any wise interrupt that equal channel of distribution intended by the constitution. The heirs themselves assembled, wholly and altogether or through their representa-



tives, have no right to squander away rights and privileges, to which their latest posterity have an equal claim with themselves. When Utah is knocking at the door for admittance into the Union, it matters not whether peopled with Abolitionists or slaveholders, it matters not how great their aversion to slavery may be. They are just equal and nothing more than equal under the constitution, to participate in all the rights, privileges and immunities, all arising from our government. It is all public property, and our common guardian alone being vested with the power to make all needful rules and regulations concerning it, has the power to carry out and act up to the full spirit of the will or constitution, thereby admitting it into the union, as all States should be open and ready for settlement to all, regardless of the kind of property that either may be possessed of. The constitution has delegated this guardian congress with no power to exclude or to be in any wise instrumental towards excluding any part of said heirs from the full enjoyment of their equitable proportion, to suit the will or caprice of the stronger party, but, to the contrary, enjoins it on said guardian to act for the good of the whole and to maintain a perfect equality between them. This guardian cannot comply with the stipulations of the will if he does not retain the power of governing said estate and distributing it agreeably to the instructions therein laid down. No part of the heirs can violate a settled principle of the will, by which the choice of one would be affected to the exclusion of another, without coming under the jurisdiction of their common guardian. If, then, a State, by an assumption of power never granted to them by the constitution, has conceived the right to legislate on private property, and if that spirit of proscription has engrafted itself in our body politic as an evil that will sooner or later subvert our liberties. If it has already broken into the sanctuary of domestic happiness, peace, tranquility and liberty for the achievement of which our forefathers lived and died. If, by false construction of our constitution, that has been looked upon by all nations of the earth as the most perfect production of human wisdom, civil war has been waged with all its desolating influence—if, from that cause, a brother has stained his hands in a brother's blood, and made this land, that should be held sacred as the burying ground of martyrs of liberty, the slaughter ground upon which their sons are to be lurchered—if from that cause our country has been laid waste by those with whom we are connected by all the ties of consanguinity and social relations and surrounded by the same household gods, if our land has been crimsoned with the blood of its citizens, and been made the theatre on which cruelty and destruction has been acted—if, from that cause houses have been depopulated and exposed to the crackling flames of the incendiary, who would smile with maniac glee at the earnest supplication of innocent woman, appealing to hearts of steel for the preservation of her unfortunate husband, and deaf to the infant but earnest appeals of orphan children in behalf of their butchered father, who once chattered like spring, on his knee, at last left lonely wanderers, all of whom with tears of grief and bitter recollections, look back to the scenes of destruction—to the scenes of the last, fond farewell of that parental eye, flickering in its socket, trying, even in death, to give them one more token of affection. If, by false construction of the constitution and by the exercise of a dange-



rous principle, civil war and all of its concomitant evils have threatened us—if this beautiful temple of liberty erected by our forefathers, lighted up with the lamps of freedom and civilization, to which we have invited the oppressed nations of the earth to retreat as an asylum from their oppressors, and which its builders implored us to preserve as the work of their hands—if it is now convulsed and tottering to and fro with the yawning earthquakes of dissention, and its enemies are busily engaged in producing the work of its destruction, which threatens to crush under its ruins, indiscriminately, friends and foes, would it not be right, all feeling a sense of common danger, to bury all causes of discontent, and after spending our estate, after the example of the prodigal son, return to the precepts of our fathers and make restitution for the past by a strict adherence to paternal obligations for the future? If the constitution gives a State no right to legislate on private property, from what source is it derived? Is it contended that the ordinance of 1787, passed in Congress under the Old Articles of Confederation, is a precedent to control our legislation for the territories and States, under our present form of government? The provisions of that ordinance prohibited slavery from the north west territory, than which nothing can be more inconsistent with the powers of the present government. True it is that our constitution says, in article 6th, that all debts and engagements entered into before the adoption of the constitution, should be as valid against the United States as under the confederacy. All debts and engagements. What interpretation shall be put on those two words? Can we look upon them in any other light than as being synonymous, expressing the same thing by different words? Are the words “debts and engagements,” here used as a part of the Old Articles of Confederation? Are they used as expressive of laws passed by Congress under the Articles of Confederation that we are still bound to obey? Can any thing be more absurd? To assume that position would be equivalent to contending that we now live under a constitution, the principles of which we can never exercise when the enjoyment of which clashes with erroneous and unsafe doctrines of the former one, which has long since been repealed by the adoption of another. Can it be supposed that the framers of our constitution intended that the old Articles of Confederation, or any law passed in Congress in pursuance thereof, that would in any wise be calculated to clash with the liberties of the people, should be regarded by our constitution otherwise than with sovereign contempt? Can it be argued that all their injurious enactments that formed such an imperfect bond of union between the States, and so entirely inadequate to meet the wants and contingencies of the government, should be recognized by our constitution as a part of the supreme law of the land? Can it be supposed that when the framers of our constitution formed the present plan of government, and declared their object was to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defence, promote the general welfare, and secure the blessings of liberty to themselves and posterity. I say, is it possible that the framers of our constitution could have had the promoting of all those grand objects, by supporting and engrafting in our government doctrines repugnant to its spirit, and which are calculated to lead directly to an opposite extreme, if our constitu-



tion is bound to fulfil a part of that ordinance that was passed in Congress, acting under the old Articles of Confederation, declaring that slavery should not exist in the north west territory, if the words all "debts and engagements" can, in the nature of possibility, be made applicable to a part of the ordinance, instead of local matters entirely of a different character? Then it necessarily follows that it is applicable to all the laws under the confederation. If, then, that part of said ordinance that declares that slavery shall never exist in the north west territory, is valid against the United States, as under the confederation, then all the provisions under our former government, for the establishment of laws, are also valid against the United States, as under the confederation. If the words "debts and engagements" is applicable to one law under the confederation, it is applicable to the whole. Should Congress, under our present constitution, regard this ordinance as laying down rules for the future government of said territory, any more than if it never had been passed. Why—because they were engrafted with and considered a part of the old articles of confederation, that were considered not only inefficient to produce the effect desired, but destructive to liberty, and repugnant to the full spirit and meaning of the constitution, the adoption of which by the common consent of the States, had rendered one null and void, and the other the supreme law of the land. But suppose that every part of said ordinance has been strictly adhered to by congress, it cannot in that event be made to appear in any other light than that there has been a gross and total departure, on the part of congress, from the fundamental principles of our government, by the unanimous adherence to which the States were actuated when they formed our present Union, as it is now proposed to show:—The north west territory was ceded to the United States by the general assembly of Virginia, at their session begun October 20th, 1783, and accepted by the congress of the United States March 1st, 1784. The act of Virginia was modified by act of assembly of December 30th, 1788, consenting that the territory be divided into not more than five nor less than three States, and assenting to the ordinance of congress for the government of this territory, which was passed July 13th, 1787—an act to provide for the government of the territory north west of the river Ohio, was approved August 7th, 1789. This territory was divided into two separate governments by act of Congress, May 7th, 1800. The north western territory ceded by the commonwealth of Virginia, was the subject of special legislation by the congress of the confederation, first by the passage of a resolution for its government, on the 22d of April 1784, and then by the adoption of an ordinance, which was sanctioned by congress on the 13th of July, 1787—the sixth article of which declares that neither slavery nor involuntary servitude shall exist in said territory. When our constitution was drawn up and reported, there existed in some States a distrust and well-grounded apprehension that it was incapable and entirely inefficient to promote the great object of equality and justice that all were desirous should exist between individuals and States. The States had claimed extensive limits of territory, and each one ambitiously grasping at territories, to which neither one had an exclusive right, neither of whom would have used with greater moderation or justice. The



increase of power and wealth derived from those territories, when acquired, than what they displayed in their endeavors to acquire them, such being the general feeling of existing differences between the States in relation to the territories. Finally, after finding all other expedients ineffectual in promoting the ends of justice, and in order to remove the only obstacle to the final ratification of the constitution, it was resolved in congress of the confederation, on the 10th October, 1780, "that the unappropriated lands that may be ceded to the United States or relinquished to the same by any particular State, pursuant to the recommendation of Congress of the 6th Dec. 1779, shall be disposed of for the common benefit of the United States, and all have the same rights of sovereignty, freedom and independence as the other States; that each State that shall be so formed shall contain a suitable extent of territory, not less than 100 nor less than 150 miles square, or as near thereto as circumstances will admit, and be settled and formed into distinct republican States, which shall become members of the federal Union. That the said lands shall be granted or settled at such time and under such regulations as shall hereafter be agreed upon by the United States in Congress assembled, or any nine of them, or more." We see here an inclination, unanimous on the part of all the States, acted out to endow and clothe Congress with the unrestricted power to act in this matter for the good of the whole, as their common guardian. Each State throws all their supposed claims and rights to territories, as common stock in the hands of their guardian, to be distributed in way and manner aforesaid, for the good of the whole, and enjoins it on said guardian, as part of the supreme law of the land and which can never be countermanded, to erect in each State a republican government. Congress, under these circumstances, clothed with unlimited powers in this case, and of the people's own choice, of which said guardian never can be divested all obstacles being removed to the ratification of the constitution, it was completed on the 1st March, 1781. The articles being dated the 9th July, 1778, and this completed the bond of union of the thirteen original States, whose delegates assembled in congress, continued to legislate and execute the powers of the United States, under the articles of confederation, until the 4th March, 1789, when, by their resolution of the 13th September, 1788, the constitution of the United States, also adopted and ratified by the people of the said original States, went into operation, forming thereby a more perfect union of the people for the government of the United States. In the short space of four years after, the States had enjoined it on congress to receive from them all territories to be thrown in by the States as common stock for the good of the whole, and further enjoining them to form a republican government in each and every State that might thereafter be formed within the limits of said territory to be endowed with all the powers of sovereignty, rights and privileges of citizens of the United States. This northwest territory was made a case of special legislation by the confederation, first by the passage of a resolution for its government, on the 23d April, 1784, and an ordinance of Congress passed for the Government of this territory, July 13th, 1787, thereby excluding slavery from said territory, by which only one party who might be possessed of the legal property qualifications could be enabled to remain within the limits of said territory, thereby erecting an anti-republican form of government in said terri-



tory. The States, prior to the constitution, were ever studious to retain the reins of government in their own hands, it appeared that congress was only the instrument of administering justice, providing for the common defence, &c., subject at all times to be controlled by the will or inclination of individual States; that inordinate thirst for power manifested by the States might have been presumed to be forever quelled, after witnessing its destructive influences, and after, by common consent, each State having relinquished its right of the territory, to the United States, for the good of the whole. Here are now two cases of importance presented to our view between the merits of which it may be deemed necessary to show that the ordinance declaring that the northwest territory should be free, is null and void and repugnant to all the leading principles of territorial and State governments that united us together as confederate States. As mentioned, the States before final adoption of the constitution made a surrender to all their right of territory to the United States, to be used for the good of the whole, without any reference to any geographical distinction, party or sect, and confided said territory in the hands of their common guardian, congress, to be distributed without any distinction for the good of the whole, said guardian guaranteeing to each and every State that might be erected within the limits of said respective territories a republican government with equal rights and privileges, subsequent to that constitutional provision for making disposition of the public lands and the government to be created therein upon republican principles. The northwest territory ceded by the commonwealth of Virginia to the United States for purposes before mentioned, was made the subject of special legislation by the congress of the Confederation, first by the passage of a resolution for its government on the 23d April, 1784, and then by the adoption of an ordinance sanctioned by congress, the 13th July, 1787, which said ordinance excludes from said territory slavery. Is this one of the debts or engagements, if they can be so classed, that is just as valid under the constitution as the confederacy? Now here are two debts or engagements, which our said guardian is bound to discharge—it is impossible, in the nature of things, for both to be liquidated. Our said guardian, congress, has transcended the limits laid down for her action—her contracts transcended her means—and it is impossible for but one to be fulfilled. The first is agreeable to the full spirit and meaning of our constitution, and upon the faithful discharge of which our happiness and liberties depend—the other is unsanctioned by our constitution, is anti-republican in its character, robs American citizens of their equal rights and privileges, guaranteed to them by the constitution, and subjects the minority to the compulsive restrictions of the majority. In the passage of said ordinance, there is exhibited a most flagrant and daring outrage of principles and usurpation of power almost unparalleled in the history of our country. Here is presented to our view the original States, at one time cherishing all the principles of justice and equality, and regarding the public territories as public property, that had been gained from the king of Great Britain or the Indians, by the blood and treasure of all, and ought therefore to be a common estate to be granted out on terms equally beneficial to every American citizen. Such amongst other noble purposes of like character and mutually entertained—it was that that dispersed all the elements



of dissention existing under the articles of confederation and laid the foundation, as was then fondly hoped, of forming a Union founded upon the broad republican principles, characterized by a strict sense of justice and equality to every American citizen—burying all distinctions without any regard to any party or sect, or geographical lines of distinction.—Our constitution was framed on the broad principle of equality, guaranteeing to each and every State in the Union a republican form of government. But that feeling was of short duration, and those same States that had so seriously rendered themselves conspicuous by their many manifestations of patriotism and a commendable ardor for the promotion of the public good, assumed the daring responsibility of revoking the principles of our government and which each State was solemnly bound to observe. By making the northwest territory, ceded by the State of Virginia to the United States for the public good, a case of special legislation, thereby passing an ordinance in direct opposition to all their former protestations, declaring that slavery should never exist within the limits of said territory, and free only to that part of the American citizens whomight bring with them the right kind of property qualifications; thereby erecting an anti-republican government, hostile in its character and entirely at variance with all the principles of a republican government, which our constitution guarantees to each State. Here is one amongst the first aggressions against the equal rights of the people by legislation on the subject of slavery, and can be adverted to as almost the exclusive source from whence that inequality in all the rights and privileges has emanated and the starting place of all jealousies and divisions relating to the subject of negro slavery. This northwest territory was ceded to the United States to be appropriated as aforesaid by the general assembly of Virginia, at their session begun October 20th, 1783, and accepted by the Congress of the United States, March 1st, 1784. That cession was not more than made and accepted by the congress of the United States, before Virginia assumed the right to legislate for said territory, after having relinquished all rights to lands therein to the United States for the common good. The act of Virginia was modified by act of assembly, December 30th, 1788, consenting that the territory be divided into not more than five nor less than three States, and assenting the ordinance of congress for the government of this territory, which was passed July 13th, 1787. What right had Virginia, after having surrendered all her claim to said territory to the United States for the public good to modify any act by which she would be instrumental in violating a solemn agreement entered into by all the States, and what right had congress to act in direct opposition to the express conditions upon which said territory was relinquished, ceded to no particular State, but to the United States, to be confided in the hands of congress, a common guardian, acting agreeably to instructions, for the good of the whole, and thereby nurturing and sustaining the ambitious, grasping inclination of the territories for the emoluments of independent States, that had been so recently the cause of strife amongst the States? Is this surrender of the whole northwest territory to a part of American citizens, classed with all debts that is bound to be fulfilled under the constitution, as under the confederacy, that excludes more than one half American citizens from the rights of settlement within the limits of said territory, to which all had an equal right?



This territory and the terms upon which it was ceded to the United States for the public good, was accepted by the congress of the United States, March 1st, 1781. Is that ordinance, that was passed at that time, not sanctioned by any law or precedent and in direct violation of the settled agreement between the States to be considered as an engagement, valid under our constitution, if we recognize that unconstitutional ordinance that is calculated to nurture and promote all the feelings of strife and jealousy, and to array section against section, interest against interest, and man against his fellow man, then agreeably to the same expression; we are equally bound to be governed by all the articles of the confederacy

I say, if words, "debts and engagements," mentioned in the 6th article of our constitution, was intended to be applied to the oppressive conditions imposed by the confederacy—if it was intended that the words "all debts and engagements" should embrace all laws of the confederacy, to be as valid under our constitution as under the confederacy, it would then appear very clear that we now lived under a constitution the exercise of the principles of which, formed for the general good, would depend entirely upon the restrictions imposed upon us by the confederacy to be observed, and that we had no right to act up to its full spirit and meaning, provided it clashed with any debts or engagements of the confederation, all of which is just as valid under the constitution as under the confederacy, one just as much binding on our government as another, however destructive it might be to the peace and prosperity of the Union. Can it be supposed that it was intended, when our constitution was adopted by the States, affording to every American citizen equal rights and privileges and guaranteeing to every State a republican form of government, that the framers of that instrument intended that the principles of the confederacy should be engrafted therein, from which the States, by their united struggles and surrender, were released. In pursuance of the recommendation contained in the resolution of congress, of the 6th December, 1780, the following States made cessions of territory to the United States at the dates respectively stated: The State of New York, on March 1st, 1781; the State of Virginia, on March 1st, 1784; Massachusetts, on April 19th, 1785; Connecticut, Sept. 14th, 1786, and confirmed May 30th, 1800; S. Carolina, Aug. 9th, 1787; N. Carolina, Feb. 25th, 1790; Georgia, April 24th, 1802; and in the congress of the confederation, of date 10th October, 1780, it was resolved "that the unappropriated lands that may be ceded or relinquished to the United States, by any particular State, pursuant to said recommendation of congress, of the 6th September, 1780, shall be disposed of for the common benefit of the United States, and be settled and formed into distinct republican States, which shall become members of the federal Union and have the same rights of sovereignty, freedom and independence as the other States." Can we view the surrender of this northwest territory, to be settled by only a part of American citizens, all of whom had an equal right in any other light than as a gross and palpable departure of the principles by which each State was actuated? How little it comports with the power vested in congress, by mutual consent, to erect a republican government in all the States that may be created within said territories and extending to all the same rights and privileges? Can this usurpation of power be so tortured as to be recognized as one of the debts or engagements that is as valid under our constitution as under the confederacy, or is it not an illegal debt, an unjust obligation, an engagement sanctioned by no law or precedent, and the foul offspring that claims its origin in violating obligations mutually agreed upon and engagements acquiesced in for the good of the whole, which engagements, notwithstanding the ardor they have been pursued by the opponents of equal rights and privileges—they stand in bold defiance to the ambitious designs of demagogues and view with contempt the raging spirit of fanaticism. That surrender the States made of their respective territories, under the confederacy, for the good of the whole, agreeably to said recommendation of congress, is also a debt or engagement made by mutual consent and now composes that part of our constitution as relates to territories and States, and the government thereof. If the words "debts and engagements" which are synonymous in their meaning, having reference to debts, contracts, grants, &c., could be made applicable to all the ordinances and laws passed under the confederation, we would be in the same condition that we were prior to the adoption of the constitution. If the framers of our constitution intended that any law of congress of the confederation should come in contact with equal



rights and privileges that they labored to promote, why guarantee to each State a republican government and promising to all equal rights and privileges, and declaring that the constitution and the laws of the United States, which shall be made in pursuance thereof, and all treaties made or which shall be made under authority of the United States shall be the supreme law of the land, and the judges in every State shall be bound thereby, any thing in the constitution or laws of any State, to the contrary notwithstanding? Suppose, for instance, that the thirteen original States, after having, agreeably to the recommendation of congress as aforesaid, relinquished their territories to the United States for the common good, &c., in the place of passing this said ordinance had, by the same usurpation of power, passed an ordinance or law of an entirely opposite character, by the exercise of which all persons would have been excluded from being residents therein who were not slaveholders, would that now be construed as one of the debts or engagements as valid under our constitution as under the confederacy, or would it not be recognized as null and void and a violation of a former compact that we were bound to adhere to. Now what is the difference? Here are two parties, each one contending for the ascendancy. One party says that said territory shall be settled only by that class who are not owners of negroes. The other party declare that it shall be settled only by slave holders. Each party with their property although entirely dissimilar in their characters are equally protected by our constitution, which also guarantees equal rights and privileges to all. Why should we boast of being nurtured in the land of liberty? Why talk about our Union and ask for a perpetuation of the blessings we all in common enjoy. Delusive idea! Habit has accustomed us to the pangs of oppression, and we, like victims of a disease that we have in no way been instrumental in promoting—thank heaven that it is no worse. No! We are no longer a Union of States. A union implies harmony in all of its parts. Can a man in this boasted land of republicanism transcend the limits of his State with a certain species of property and make any certain calculations that he will not be plundered and robbed before he returns? Can we conceive any two nations of people however different their form of government may be, in whose breasts greater jealousies and hatred exists than there does amongst people of our own blood and bone of our bone, and have we not a right to ask to have this obstacle removed that has, in violation of the constitution, excluded a part of American citizens from their equal rights and privileges and has planted and nourished in our midst an anti-republican government instead of a republican government, guaranteed to us by the constitution and has produced that deadly strife, that any two governments so different in their characters are likely to produce. The constitution protects all American citizens alike and guarantees to all equal rights and privileges as American citizens, and legislating upon private property is in opposition to our constitution and to all the principles of a republican government.

If slaveholders had been indulged in the same wild spirit of usurpation, and had been tolerated in driving from slave States all persons who owned property of a contrary kind, would they now have the audacity to add insult to injury, and call it an original right, sanctioned by precedent and example? No—like some foul cancerous sore, that has with insidious progress seated itself in the once gigantic frame of the sufferer, he resorts to the application of some soothing and alleviating prescription, to relieve the pangs of momentary pain. In the mean time he suffers the roots to expand, which at length baffles all common remedies, and at last is compelled to apply the proper remedy. Let us now, in our crippled condition, after being baffled in our healing restoratives, apply the constitution, and live up to its full spirit before the disease becomes master of our body politic, and not defer the remedy until the application would endanger the life of the patient. But suppose slaves to be either a curse or a blessing to their owners, and if they prove to be a curse to their owners, where did they get the right to dare to touch it in any shape more than to admit negroes and their masters, upon an equal footing with owners of any other kind of property, all of whom under the constitution are equal. If congress has no right to lessen or to increase the limits of slavery—if that body possesses no power to legislate private property in or out of a State, can it be supposed that a State possesses that power. People in a State have no right to legislate on that subject. Just in either way, the majority in a State has the same right to make a free State that a majority in another has to make a slave State. That is to say, that neither has the power, or any right, to act on that subject, as in either case that kind of property by legislation would be either increas-



ed in its limits, or diminished; and in either case one party excluded, both of whom have an equal right. Can one State at her option destroy a settled principle of the constitution? And can the congress of the United States, and the President, on the watch-tower of our liberties, sworn before Almighty God to support the constitution, be the tacit observers of encroachments made by one party in a State against the rights of another party, guaranteed to them by the constitution? Congress has the power to make all needful rules and regulations respecting territories or other public property. When a State is admitted into the Union, the public land is just as much under the jurisdiction of this guardian congress as the territory was before it became a State. There the property is that has to be equally divided, agreeably to the will, and this guardian acting for them all, and sworn to make them all equal, is bound so to admit said State in such a manner as to be enabled to make the equitable dividend, by throwing it open to be settled equal and alike by all American citizens who may desire to emigrate thereto, regardless of the kind of property either may be possessed of. Let congress pass that law for the good of the whole people. The limits of slavery thereby would be neither increased or diminished by said action of congress, but left like water to seek its level, and to seek its own channel. All American citizens thereby would be equally protected in their rights guaranteed to them by the constitution, and would effectually remove the minority beyond the reach of oppressive legislation on that subject by the majority. People in a territory have just as good a right to make laws to the exclusion of one party, as they have when said territory is made a State. That is to say, both are under the guardianship of congress, and if either pass any laws that conflict with the will or constitution, and thereby impair its validity before the distribution is made by said guardian in a way therein described, they are then and under them circumstances equally subject to the control of said guardian, whose duty it is to carry out the will to its full meaning and spirit. When a territory is ripe for admittance into the Union, the children all having arrived at twenty-one years, the guardian has just to discharge the obligations imposed by the will—that is, to divide said estate equally. This can only be done by this same regularly constituted guardian, congress; and it must be made in pursuance to that instrument, which enjoins it on said guardian to make all equal, and to maintain that equality amongst them. Thus legally possessed of it by their guardian, each one being made equal agreeably to the constitution, they can pass any laws relative to the governing of their domestic concerns, that they may conceive most productive of their interests and welfare. The heirs must be legally the owners of it, by equal distribution, made by their guardian agreeably to the will, before they have the power of managing it. When legally possessed of it agreeably to the constitution they are not prohibited from managing their domestic concerns, and making laws and regulations to suit themselves; provided, nevertheless, they make no law that will in any wise impair that feeling of harmony and equality that was intended should always exist.

For instance, a man dies, who leaves an immense estate to be equally divided amongst a numerous family of sons, and there is a regularly appointed guardian to administer to each son, upon arriving to the years of twenty-one their equal proportion of said estate, agreeably to the will of their father. A part of said estate consists of a very extensive farm, on which a part of said sons have located themselves, and not yet twenty-one years of age, and consequently under the guidance and superintendence of this guardian, and it appears that those minors on said estate have already declared hostility to each other, from the fact of their being divided into two parties, and each party being determined to hold said estate to the exclusion of the other, when they should become of age. At length they arrive at the age of twenty-one years, and it appears that they are inflexible in the determination they expressed when minors, each party contending to hold said estate to the exclusion of the other brothers, and moreover claim the right so to make laws and regulations to suit—that by their exercise they will be enabled to entirely exclude the weaker party from being residents thereon. In this case how should this guardian act who was appointed to administer to each one his equitable proportion? Would he be fulfilling the responsible duties imposed upon him by the will to surrender to them the unrestrained right to carry their threats into execution, by which the minority would be entirely excluded by the majority from being residents thereon? A State just admitted, is as much under the guardianship and jurisdiction of congress as it was when a territory. In the former case, the time has arrived, the children all having arrived at mature age, for the guardian to make



the division. In the latter, the guardian holds the property for the benefit of the heirs when they do become of age. When Camillus was surrounded by false accusations, and banished from the city of Rome by his persecutors—when he arrived near the capital, and on the road to his place of banishment, he prayed and called the immortal Gods to witness, if the Roman citizens had persecuted him with false accusations, and banished him without just grounds, that they would soon repent of it, and express to all the world the want of Camillus. Shortly after his banishment, Brennus, the Gaulish general, entered the city of Rome, with his formidable army, exercising the uncontested sway over the liberties of the people, terms of peace were negotiated between Brennus and the Romans, the price, to be paid in gold, agreed upon, and put in the scales to be weighed, when Brennus threw his sword and hilt into the scale, crying out in a menacing tone, *VO VICTIS*, we to the conquered. The Romans, sometime before that, recalled Camillus from banishment, and before the price of peace was paid he arrived with an army that he had prepared for the crisis, ordered them to take away the gold, saying that the liberties of Rome had been obtained by steel, and not with gold. Let us recall our constitution, and like the contrite Romans, express to all the world the injury it has received at our hands, and let our steady adhesion to all its principles be the steel through which our lost rights are to be redeemed and perpetuated. Can the body politic be relieved from its present deplorable condition without the application of the proper remedy? As well might a man who had been blessed with the best constitution, suffer himself to fall into one excess of debauchery, after relying upon a repetition of like excesses to cure the thirst for the intoxicating poison, until at last his emaciated frame is bowed down, no longer bearing any representation to his former self, he becomes a companion of beggars, and the dwelling place of wretchedness and woe. There are but few instances on record where the first usurper of his country's laws has subverted the liberties of the people. No, it is his successors that are to be dreaded, each one of whom, by steady, progressive steps become more lawless, when at last they come with garments steeped in blood, surrounded by a train of hired sycophants, and bid defiance to the laws of their country. Only vest any power with the exercise of a privilege by which our equality as American citizens, in all their rights and privileges, would be destroyed, and all is lost that is worth preserving. Does habit make an infraction of our constitution less injurious to the happiness and interest of the people, or the usurper less to be dreaded? If a State, an inferior creature of the constitution, has a right to agitate a settled principle, so fixed by her creator as never to be thrown in to the shape of controversy, which settled principle declares all equal, then she has a right to agitate and legislate on any other settled principle in our constitution. Carry out this principle and where would it end? Only tolerate the majority in legislating on the reserved rights of the people with the power of excluding or retaining a party agreeably to their views and decisions, and where would it end? Religious freedom and privileges would languish and die, or its adherents, in imitation of former martyrs, would exemplify their rectitude of conscience by a disregard of life, prolonged at the expense of violated feelings. Only vest any power on earth with the right to legislate on the settled principles of our constitution, intended forever to be retained by the people as a shield of protection against the pointed arrows of their oppressors, and we will live to see its death, like some huge, venerable oak, on whose lofty top the eagle, after soaring through distant lands, at last found her resting place and brought forth her young, and with flapping wings and eyes of fire, bid defiance to all the feathered tribe, at last she sees the rude axeman beneath at the work of destruction, she pounces from her lofty habitation and with well-directed claws to his breast, furiously tears his heart asunder and stretches her victim on the ground, she soars aloft and maintains her former height all covered with wounds, when soon some whispering breeze warns her of approaching danger, the well directed blows of the rugged woodsman with his hardened steel confirms her fears. Although much weakened from the loss of blood, she again descends from her lofty habitation to defend her stand, when lo, to her dismay, the birds of the forest, the screech owl, the companion of midnight spirits, and the croaking raven all conspire to destroy her. With well applied strokes the axemen avail themselves of the golden chance and at length those noble boughs, that for years have waved in bold defiance to the storm, falls, and as though sensible of the injury, arouses the whole neighborhood, all of whom visit the old family tree and over it a deep melancholy lend, and drop a tear or two at the recollection of former happy days forever gone.

VIVO IN SILVIS: